

LANCE R. LEFLEUR
DIRECTOR



BOB RILEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

October 26, 2010

CERTIFIED MAIL # 91 7108 2133 3936 5736 4742
RETURN RECEIPT REQUESTED

TUAN VUONG
18465 WHISPERING MEADOWS BLVD
VANCE AL 35490

RE: Administrative Order
NPDES No. ALR16EFRC
Highway 82 Site
Bibb County (007)

Dear Mr. Vuong:

Please find enclosed an Administrative Order which requires you to take certain actions at the above referenced facility in regard to alleged violations of the Alabama Water Pollution Control Act, including cessation of all regulated activity except as needed to address the alleged violations. The Unilateral Order has been issued without the consent of the responsible parties. This order does not assess a civil penalty.

Pursuant to §§22-22A-(7)(c)1, Code of Alabama (1975), as amended, this Order may be appealed by filing a request for a hearing within 30 days after receiving notice of this Order. The request should be addressed to the Chair of the Environmental Management Commission and must comply with the requirements of ADEM Admin. Code r. 335-2-1-.04, copies of which may be obtained by submitting a written request to the attention of Molly Tatum, ADEM-Permits and Services Division. Rule 335-2-1-.04 is also available online at the Department's website at <http://www.adem.state.al.us/alEnviroRegLaws/files/Div2Eff5-26-09.pdf>. If you have questions regarding this matter, please contact Darby Clark at (334) 394-4306.

Sincerely,

Glenda L. Dean

Glenda L. Dean, Chief
Water Division

GLD/dpm

Enclosure

cc: Thomas L. Johnston, ADEM
Scott Hughes, ADEM
Chip Crockett, ADEM
Dale P. Mapp, ADEM
Darby Clark, ADEM
Cesar Zapata, USEPA Region 4



Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE

I, Glenda L. Dean, do hereby certify that I have served the executed Administrative Order 11 - 013-WP upon the person listed below by sending the same, postage paid, through the United States Mail, Certified Mail Receipt # 91 7108 2133 3936 5736 4742, with instructions to forward and return receipt, to:

Tuan Vuong

Owner

Tuan Vuong

18465 Whispering Meadows Blvd

Vance AL, 35490

Done this 26th day of October, 2010.

GLENN L. DEAN

Glenda L. Dean, Chief

Water Division

Alabama Department of Environmental Management

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

TUAN VUONG
HIGHWAY 82 SITE
VANCE, T24N, R8E, S29,
BIBB COUNTY, ALABAMA
NPDES REGISTRATION NO. ALR16EFRC

ORDER 11-013-WP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Water Pollution Control Act (hereinafter "AWPCA"), Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations (hereinafter "ADEM Admin. Code") promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management [hereinafter "Department"] makes the following FINDINGS:

1. Tuan Vuong (hereinafter "Operator") is an Alabama developer constructing a residential development (hereinafter "Facility") located in T24N, R8E, S29, at the intersection of Hwy 82 and Sand Mountain Road in Vance, Bibb County, Alabama. Sediment and other pollutants in stormwater runoff from the Facility have the potential to discharge and/or have discharged to an unnamed tributary to Mooney Creek, a water of the State.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16, (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1387. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 through 22-22-14 (2006 Rplc. Vol.).

4. The following references and acronyms are used in this Order and, when used, shall have the meaning of the name or title referenced below.

BMPs	Best Management Practices
CBMPP	Construction Best Management Practices Plan
NOR	Notice of Registration
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
QCP	ADEM-recognized Qualified Credentialed Professional
UT	Unnamed Tributary

5. Pursuant to ADEM Admin. Code rs. 335-6-12-.05(1) and 335-6-12-.11(1), the Operator is required to submit to the Department an NOR in order to register for and obtain NPDES coverage prior to commencing and/or continuing regulated disturbance activities.

6. During an inspection of the Facility on March 24, 2010, the Department documented that the Operator had not registered for and obtained NPDES coverage prior to commencing regulated disturbance activities. The Operator violated ADEM Admin. Code rs. 335-6-12-.05(1) and 335-6-12-.11(1) by operating an NPDES construction site without having submitted a complete and correct NOR to the Department.

7. On July 19, 2010, the Operator submitted to the Department an NOR requesting NPDES coverage under ADEM Admin. Code chap. 335-6-12 for regulated disturbance activities and discharges of treated stormwater from the Facility. The NOR was not complete and the Operator was notified of the deficiencies by letter on July 28, 2010. The Department granted registration ALR16EFRC to the Operator on August 2, 2010. Registration ALR16EFRC is scheduled to expire on August 1, 2011.

8. ADEM Admin. Code r. 335-6-12-.21(1) provides that commencement and/or continuation of NPDES construction activity is prohibited unless effective BMPs are implemented and maintained in accordance with a CBMPP prepared/certified by a QCP as adequate to meet the requirements of ADEM Admin. Code chap. 335-6-12 and applicable requirements of ADEM Administrative Code division 335-6. The CBMPP and any BMPs shall meet or exceed the technical standards of ADEM Admin. Code chap. 335-6-12, and the Alabama Handbook For Erosion Control, Sediment Control, And Stormwater Management On

Construction Sites And Urban Areas published by the Alabama Soil and Water Conservation Committee (hereinafter the "Alabama Handbook").

9. The Department inspected the Facility on March 24, 2010 and August 20, 2010, and documented that, although NPDES construction activity had commenced and was continuing, the Operator had not properly implemented and maintained effective BMPs in violation of ADEM Admin. Code r. 335-6-12-.21(1).

10. ADEM Admin. Code r. 335-6-12-.35(10) requires operators to promptly take all reasonable steps to determine the nature and impact of non-complying discharges, and to remove, to the maximum extent practical, pollutants deposited offsite or in any waterbody.

11. During the March 24, 2010 and August 20, 2010 inspections, accumulations of sediment resulting from discharges at the Facility were observed by the Department offsite and in a UT to Mooney Creek in violation of ADEM Admin. Code r. 335-6-12-.35(10).

12. Ala. Code § 22-22-9(e) requires an operator to respond within the specified time frame to a notice of violation or non-compliance by the Department.

13. On April 27, 2010, an NOV was sent to the Operator by the Department as a result of the March 24, 2010 inspection. The NOV notified the Operator of deficiencies documented at the Facility and required the Operator to submit to the Department, within thirty days of receipt of the NOV, a report prepared by a QCP showing steps that were taken at the Facility to correct the noted violations and a detailed plan for the remediation and/or removal of sediment and other pollutants deposited offsite and/or in State waters. On July 19, 2010, the Department received a response to the NOV; however, it did not include the detailed remediation plan. As of September 24, 2010, a detailed remediation plan has yet to be submitted to the Department. The Operator violated Ala. Code § 22-22-9(e) by failing to respond to the NOV within the specified time frame.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-5(10), 22-22A-5(12), and 22-22-9(i) (2006 Rplc. Vol.), it is hereby ORDERED:

A. That the Operator shall immediately cease all construction, building, production, and related activity at the Facility other than BMP implementation / maintenance, and sediment removal / remediation. Construction and related activity other than BMP implementation / maintenance, and sediment removal / remediation is not authorized to resume until approved in writing by the Department.

B. That the Operator shall take immediate action to prevent, to the maximum extent practicable, sediment and other pollutants in stormwater leaving the Facility and prevent noncompliant and/or unpermitted discharges of pollutants to waters of the State.

C. That the Operator shall have a QCP perform a comprehensive inspection of the Facility, offsite conveyances, and affected State waters.

D. That the Operator shall implement a CBMPP, prepared/certified by a QCP, detailing effective BMPs that will be implemented and continually maintained to prevent/minimize the discharge of all sources of pollutants, including but not limited to, sediment, construction waste, oil & grease, chemicals, and other pollutants. The CBMPP and any BMPs shall meet or exceed the technical standards outlined in ADEM Admin. Code chap. 335-6-12 and Alabama Handbook.

E. That the Operator shall remove / remediate, to the maximum extent practicable, all sediment and other pollutants deposited offsite, in any waterbody, or stormwater conveyance structure.

F. That the Operator shall submit to the Department a certification signed by the QCP that effective BMPs that meet or exceed the technical standards outlined in the Alabama Handbook, the site CBMPP plan, and ADEM Admin. Code chap. 335-6-12 have been implemented, all deficiencies have been corrected, all offsite sediment / pollutants have been removed / remediated, and full compliance with the requirements of ADEM Admin Code chap. 335-6-12 has been achieved at the Facility, offsite conveyances, and affected State waters.

G. That this Order shall not affect the Operator's obligation to comply with any Federal, State, or local laws or regulations.

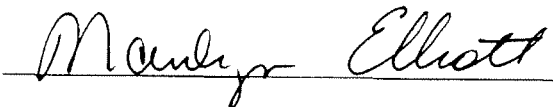
H. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and, therefore, unenforceable, the remaining provisions herein shall remain in full force and effect.

I. That, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under federal, State or local law, and shall not be construed to waive or relieve the Operator of the Operator's obligations to comply in the future with any permit coverage.

J. That the issuance of this Administrative Order does not preclude the Department from seeking civil penalties, criminal fines or other appropriate sanctions or relief against the Operator for the violations cited herein.

K. That failure to comply with the provisions of this Administrative Order within thirty days from receipt by the Operator, shall constitute cause for commencement of legal action by the Department against the Operator for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 26th day of October, 2010.



Lance R. LeFleur, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

Jackson, Valerie

From: U.S._Postal_Service_ [U.S._Postal_Service@usps.com]
Sent: Thursday, October 28, 2010 4:40 PM
To: Jackson, Valerie
Subject: USPS Shipment Info for 7108 2133 3936 5736 4742

This is a post-only message. Please do not respond.

Valerie Jackson has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 7108 2133 3936 5736 4742

Service Type: Certified Mail(TM)

Shipment Activity	Location	Date & Time
Delivered	VANCE AL 35490	10/28/10 2:55pm
Notice Left	VANCE AL 35490	10/27/10 12:12pm

Reminder: Track & Confirm by email

Date of email request: 10/28/10

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at <http://www.usps.com/shipping/trackandconfirm.htm>

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Track & Confirm

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Label/Receipt Number: **9171 0821 3339 3657 3647 42**Service(s): **Certified Mail™**Status: **Notice Left**

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